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Application Number	10/614,377
Filing Date	07/07/2003
First Named Inventor	Johanna
Art Unit	3634
Examiner Name	Purol, Sarah L.
Attorney Docket Number	MJH-103-1

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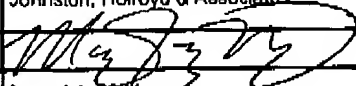
Total Number of Pages in This Submission 3

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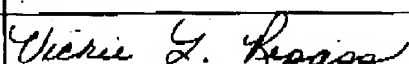
Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Mary-Jacqu Holroyd (Reg. No. 41,846) Johnston, Holroyd & Associates
Signature	
Date	August 4, 2004

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Docket No: MJH-103-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: Johanna
Serial No.: 10/614,377
Filed: 07/07/2003
Group Art Unit: 3634
Title: SOAP SAVING HOLDER
Examiner: Purol, Sarah L.

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RESPONSE TO OFFICE ACTION

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Honorable Sir:

In response to the Office Action dated May 17, 2004, the time for responding thereto being on or before August 17, 2004:

REMARKS

The last Office Action dated May 17, 2004 has been carefully considered. The indication by the Examiner in the recent Office Action that Claims 10, 11, 16 and 17 were allowable over the prior art of record is noted with appreciation. Applicant, however, will advance arguments hereinbelow to illustrate the manner in which the presently claimed invention is patentably distinguishable from the cited and applied prior art. Reconsideration of the present application is respectfully requested.

It is respectfully submitted that all of the claims of the present invention clearly differentiate it from the prior art. It is believed that the construction defined in these claims differs essentially and in an unobvious, highly advantageous manner from the constructions disclosed in the references. In the present office action, Examiner has rejected claims 1-5, 12, 13, 18-20, under 35 U.S.C. 102(b) as being anticipated by Jodwischat (5,368,268) or Harnett (5,417,397), stating that "[b]oth Jodwischat and Harnett teach a soap holder comprising a cap having a flat rigid base and sides for pressing into a bar of soap" and referencing figure 1 of both references. Examiner further rejects claims 6-9, 14 and 15 under 35 U.S.C. 102(b) as being clearly anticipated by Jodwischat. These rejections are respectfully traversed.

To anticipate a claim, the reference must teach every element of the claim. It is well settled that for a 102(b) rejection to stand, all of the elements of the claimed invention must be present in the reference. "[F]or anticipation under 35 U.S.C. 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly. Any feature not directly taught must be inherently present." MPEP 706.02 IV. (page 700-21). "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete

detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

The references cited by the Examiner do not contain every element found in the claims of the application; therefore, a 35 U.S.C. 102(b) rejection is unsupported. The independent claims of the present invention state:

1. A soap holder comprising:
 - a. a cap structure having
 - i. a flat rigid base having openings therein, and
 - ii. sides extending substantially perpendicular from said base;
 - b. said sides being thin and rigid so as to be easily pressed into a bar of soap for retaining and supporting the soap thereon.
12. A soap holder comprising:
 - a. a cap structure having
 - i. a flat rigid base having openings therein and a uniform geometric shape, and
 - ii. sides extending substantially perpendicular from said base;
 - b. said sides being thin and rigid so as to be easily pressed into a bar of soap for retaining and supporting the soap thereon.

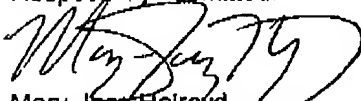
Neither of the references cited in the present office action teach a cap structure having openings in a rigid base. With respect to reference Jodwischat, Fig. 2 clearly show a cross-sectional view of a soap holding device. The structure referred to, in the Jodwischat reference, as a metal cap 18 does not contain openings therein. The metal cap 18 is designed to be attracted to a magnet 16 in order to suspend a bar of soap upside down from the metal cap 18 embedded in the bar of soap. The apparent circle in the center of the metal cap 18 in FIG. 1 appears to be an indication of the center point of the circular metal cap 18. Likewise, the reference Harnett does not teach a cap structure having openings in a rigid base. Therein the cap structure (a metal plate 14) does not contain openings but is designed to be attracted to a magnet 20.

Clearly, each cited reference fails to teach every element found in either of the independent claims of the present invention. Obviously, therefore, each cited reference fails to teach every element in the dependant claims. Since every element is not found in a single reference, a 102(b) rejection is not supported.

In view of these considerations, Applicant respectfully submits that the rejection of the original claims should be withdrawn and that these same claims should be considered as patentably distinguishing over the art and should be allowed.

Should the Examiner consider necessary or desirable any formal changes anywhere in the specification, claims and/or drawing, then it is respectfully asked that such changes be made by Examiner's Amendment, if the Examiner feels this would facilitate passage of the case to issuance. Alternatively should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, he is invited to telephone the undersigned.

Respectfully submitted:


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